

Application No. 09/902,466
Amendment dated February 10, 2009
Reply to Office Action dated September 10, 2008

Remarks

Claims 1-3 and 5-17 are pending.

Claims 1-3 and 5-17 stand rejected.

Claims 1-3, 5-17 are presented herein for review.

No new matter has been added.

In paragraph 4 of the Office Action dated Sepember 10, 2008, the Examiner has rejected the pending claims under 35 U.S.C. § 103(a) as being unpatentable over Heinonen et al. (U.S. Patent No. 6,816,719) in view of Klindworth et al. (U.S. Patent No. 6,771,701).

Applicant respectfully disagrees with the Examiner's contentions and submits the following remarks in response.

Claims 1, 14, and 17 are independent claims. Claims 2-3, and 5-13 depend from claim 1. Claims 15-16 depend from claim 14.

The features of independent claim 1 include a telephone system for transmitting telephone signals between first and second mobile stations. The system includes a first internet protocol interface configured to receive an incoming cell phone signal generated by the first mobile station, and to transmit this phone signal to the internet. A second internet protocol interface receives the phone signal sent through the internet by the first internet protocol interface and transmits it to the second mobile station, such that users of the first and second mobile stations can engage in a conversation where the phone signals are communicated over substantial distances through the internet. The first and second internet protocol interfaces each

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maintain an echo canceller/equalizer module configured to correct distortions in said phone signal caused by the travel of the phone signal through free air, server delays and internet delays.

Such an arrangement makes the transmission of cell phone communications more efficient by using the internet to carry the signal, rather than using a plurality of cell phone towers. See for example paragraphs [0003] – [0009] of the present application. This helps users carry on a live, voice conversation over substantial distances, through the internet, (see paragraphs [0009] and [0017] – [0021]) with corrected lag time delay and echoing being accounted for and cancelled (see paragraphs [0033]-[0034]).

The Heinonen reference pertains to a method and system for making profile information concerning users of a wireless network available to other users. [col. 2, lines 46-64] The profile information includes information on whether a user's device on the network is operational or not. The profile information may also include stored user data [col. 2, lines 64 – col. 3, lines 1-5]. Unlike the present invention, Heinonen's method and system transmits data that is not time sensitive to the extent that fractions of a second would affect the functionality of the method or system, because Heinonen's system does not transmit live voice input.

In order to complete the rejection of the claims, the Examiner cites to the Klindworth reference, which describes a method for using a configurable adaptive filter for echo cancellation, and a method for detecting voice or no-voice signals.

On page 3 of the Office Action, the Examiner states that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the Klindworth's echo canceller in Heinonen's invention in order to remove acoustical and electrical echoes that occur due to reflections of in signal to improve the quality of telecommunications system."

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Applicant respectfully disagrees. There is no teaching, suggestion or motivation to combine the references to arrive at the present invention as claimed.

Applicants note that the teaching suggestion or motivation test is not intended to be rigidly applied in forming obviousness rejections (KSR International Co., v. Teleflex, Inc. 127 S.Ct.1727 (2007)). However, rejections on obviousness grounds can not be sustained by mere conclusory statements but instead there must be some articulated reasoning with a rational underpinning to support a legal conclusion of obviousness. See KSR at 1741.

Applicants submit that the Examiner's position regarding using the Klind worth's echo canceller in Heinonen's invention to remove *acoustical and electrical echoes* that occur due to reflections of in signal is not sufficient to sustain an obviousness rejection.

For example, Heinonen's method and system merely transmits profile information where there is no negative effect to a short time delay. There are no *acoustical and electrical echoes* in such communications. Therefore, it would not make sense to add the echo-cancelling method of Klindsworth or any such echo-cancelling method, to Heinonen's profile information transmitter.

Furthermore, examining the Klindworth patent's detailed description makes it clear that the Klindworth reference is concerned with curing time delays in substantially the range of 20 to 120 milliseconds (see col.4, line 39 – col.5, line 58). Indeed, in col. 5, lines 43-47, Klindsworth describes a 120 millisecond time delay as “a long period of time for t_max,” where t_max represents, “the amount of time used in determining the maximum amplitude of the signal that is later used as an upper limit in a histogram of the amplitude of the signals...” (col. 5, lines 33-37). A delay of 120 milliseconds is virtually inconsequential for Heinonen's system and method

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because the Heinonen merely transmits saved profile information.

Thus there is no teaching, suggestion, or motivation in the Heinonen and Klindworth references that would cause a user of ordinary skill in the art to combine the references as suggested by the Examiner. On the contrary, as it stands, the Examiner appears to be using the language of the independent claims as a blueprint and working backwards to form the rejection without articulating a reasoning with a rational underpinning for one of ordinary skill in the art to make such a combination.

For at least this reason, Applicant requests that rejection of independent claims 1, 14 and 17 be withdrawn. For at least these same reasons, Applicant requests that the rejection of dependent claims 2-3, 5-13 and 15-16 be withdrawn .

In view of the foregoing, Applicants respectfully submit that pending independent claims 1-3 and 5-17 are in condition for allowance, the earliest possible notice of which is earnestly solicited. If the Examiner feels that an interview would facilitate the prosecution of this Application he is invited to contact the undersigned at the number listed below.

Respectfully submitted,
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